

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

SUSAN ROY, on behalf of herself and all others  
similarly situated,

Plaintiff,

vs.

ESL FEDERAL CREDIT UNION,

Defendant.

CASE NO. 6:19-cv-06122-FPG-JWF

**NOTICE OF MOTION AND UNOPPOSED RENEWED MOTION FOR  
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

**PLEASE TAKE NOTICE** that pursuant to Federal Rule of Civil Procedure 23(e) and Western District of New York Local Rule 7, Plaintiff Susan Roy, (“Plaintiff”), on behalf of herself and all others similarly situated, hereby does move this Court for an order granting Preliminary Approval of the class action Settlement reached between her and Defendant ESL Federal Credit Union (“Defendant” or “ESL”) (collectively, the “Parties”), and to enter the [Proposed] Order Granting Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement submitted with this notice of motion.

Plaintiff believes Preliminary Approval is warranted because the terms of the proposed Settlement, memorialized in the Revised Settlement Agreement and Releases, are fair, adequate, and reasonable under the law of the Second Circuit and the Federal Rules of Civil Procedure, and provide substantial relief for the Sufficient Funds Fee Class and Retry Fee Class. Given the significant risks inherent in this Action, the \$1,830,758.36 Value of the Settlement, consisting of ESL’s: (a) cash payment of \$1,700,000.00 (allocated \$935,000.00 to the Sufficient Funds Fee Class and \$765,000.00 to the Retry Fee Class) and (b) agreement to forgive, waive, and not collect an additional \$130,758.36 in Uncollected Relevant Fees, is an excellent result for members of the Retry Fee Class and for members of the Sufficient Funds Fee Class.

Plaintiff hereby moves, and Defendant will not oppose a request for the Court to (1) preliminarily approve the Settlement as being within the range of fair, adequate, and reasonable; (2) provisionally certify for settlement purposes only the proposed Sufficient Funds Fee Class and the proposed Retry Fee Class pursuant to Fed. R. Civ. P. 23; (3) appoint Plaintiff as Class Representative for both the Retry Fee Class and the Sufficient Funds Fee Class; (4) approve the Notice Program set forth in the Agreement and approve the form and content of the Notices, attached to the Agreement as Exhibits 1 and 2; (5) approve the opt-out and objection procedures set forth in the Agreement; (6) stay the Action against ESL pending Final Approval of Settlement; (7) appoint Jeff Ostrow and Jonathan Streisfeld of Kopelowitz Ostrow P.A., Sophia Gold of Kaliel PLLC, and Andrea Gold of Tycko & Zavareei LLP as Class Counsel; and (8) schedule a Final Approval Hearing no sooner than the week of December 20, 2021 (if convenient for the Court).

This unopposed Motion is based upon this Notice of Motion; the supporting Memorandum of Law; the Revised Settlement Agreement and Releases and Exhibits 1 and 2 thereto; the Joint Declaration of Class Counsel; the Declaration of Steven Weisbrot of Angeion Group LLC;; and all papers and pleadings on file herein.

Pursuant to Local Rule 7, Plaintiff states that she does not intend to file a reply in support of this unopposed motion.

Dated: August 2, 2021

Respectfully submitted,

**KOPELOWITZ OSTROW P.A.**

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